



U.S. Department of Justice

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One Saint Andrew's Plaza
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September 2, 2020

BY ECF

The Honorable Ronnie Abrams
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. John Galanis, 16 Cr. 371 (RA)*

Dear Judge Abrams:

The parties jointly write in response to the Court's order of September 1, 2020 to apprise the Court of the parties' view with respect to (i) whether the Court has jurisdiction to grant Galanis's § 2255 Motion during the pendency of his appeal; and (ii) whether the Court can resentence Galanis by written order.

The parties agree that the Court lacks jurisdiction to grant Galanis's § 2255 Motion during the pendency of his appeal. *See, e.g., United States v. Ransom*, 866 F.2d 574, 575–76 (2d Cir. 1989) (district court "lack[s] authority" to order "substantive modifications of judgments" during the pendency of an appeal). The parties also agree that a full resentencing is neither necessary nor warranted. Section 2255 explicitly gives a district court wide discretion in deciding the appropriate remedy after granting such a motion. *See* 28 U.S.C. § 2255(b) ("the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate"); *See, also, Carranza v. United States*, 794 F.3d 237, 241 (2d Cir. 2015) (recognizing that the remedy for a granted 2255 petition may not be a new trial or a full resentencing). Thus, where, as here, the issue is merely a correction to the structure of the sentence imposed, the Court can and should issue an amended judgment without further proceedings.

Galanis's appeal is fully briefed and the parties are awaiting a date for oral argument. Even under his corrected sentence, Galanis has approximately 97 months imprisonment left to serve. Accordingly, because the Court presently lacks jurisdiction to decide the motion and because there is no immediate urgency, the parties respectfully suggest that they notify the Court when Galanis's appeal has been decided at which point the parties will renew their request that the Court enter an amended judgment.

Respectfully submitted,

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the Southern District of New York

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